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8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 SAN JOSE DIVISION

12 In re:	CASE NO. 06-1371 JW
13 CONSTANCE DUDLEY,	BANKRUPTCY CASE NO. 03-52149
14 Debtor.	Chapter 7
STIPULATION AND ORDER TO SHORTEN TIME FOR NOTICE OF AND SPECIALLY SET HEARING DATE ON MOTION FOR STAY PENDING APPEAL AND MOTION TO DISMISS APPEAL	
Requested Hearing Date: Date: April 3, 2006 Time: 9:00 a.m. Place: Courtroom 8 Judge: James Ware	

23 Creditor and Appellant Charles K. Clapp ("Clapp"), Debtor Constance Dudley (the
 24 "Debtor"), Chapter 7 Trustee Mohamed Poonja (the "Trustee") and Lincoln Building Trustees
 25 Paul Laub, Andrew Swartz and Brock Tostevin (the "Lincoln Building Trustees") hereby enter
 26 into this stipulation requesting that the Court shorten time for notice of and specially set a hearing
 27 date of April 3, 2006 for Clapp's motion for stay pending his appeal of the Bankruptcy Court's
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1 order approving a settlement between the Debtor, the Trustee and the Lincoln Building Trustees
2 and the motion to dismiss Clapp's appeal, as further described herein.

RECITALS

4 A. On January 17, 2006, the Bankruptcy Court held a hearing to consider, among
5 other things, the Debtor, the Trustee, and the Lincoln Building Trustees' proposed settlement.
6 Clapp opposed the settlement. On January 20, 2006, the Bankruptcy Court announced its
7 decision approving the settlement.

8 B. On February 13, 2006, the Bankruptcy Court signed the order approving the
9 settlement. On February 15, 2006, the order was entered on the docket and on February 16, 2006,
10 notice of the entry of the order was electronically provided to parties in interest.

11 C. On February 17, 2006, Clapp filed a notice of appeal of the order, a motion for
12 stay pending appeal, and an application to shorten time and set a hearing date on the motion for
13 stay.

14 D. The Bankruptcy Court shortened time and set a hearing on the motion for stay for
15 March 1, 2006. At that hearing, the Bankruptcy Court denied Clapp's motion for stay.

16 E. On March 2, 2006, Clapp's counsel notified opposing counsel that he intended to
17 file an emergency motion for stay with this Court if the parties would not stipulate to shorten time
18 for notice of the hearing on the motion for stay. Declaration of Amy Wallace Potter ("Potter
19 Declaration") ¶ 3.

20 F. The settlement requires approval of the Monterey County Superior Court before it
21 can be consummated. Clapp believes that all creditors will be irreparably harmed if the
22 settlement is consummated before this Court can consider whether to stay the consummation of
23 the settlement pending appeal. The other parties dispute this belief. Potter Declaration ¶4.

24 G. Notwithstanding the dispute over the need to shorten time, the Debtor, the Trustee
25 and the Lincoln Building Trustees agreed to stipulate to shorten time for the hearing on Clapp's
26 motion for stay and the motion to dismiss as provided herein, and agreed that they would not
27 consummate the settlement until after this Court hears the motions. Potter Declaration ¶ 5.

1 H. Clapp believes that it is appropriate to shorten time for notice of and specially set a
 2 hearing date on the motions because Clapp asserts that consummation of the settlement before the
 3 hearing on the motion for stay may harm creditors. The other parties dispute this belief. Potter
 4 Declaration ¶ 4.

5 I. Notwithstanding the foregoing dispute, the parties agreed to request that the Court
 6 shorten time for notice of and specially set a hearing date for Clapp's motion for stay pending
 7 appeal and the motion to dismiss the appeal for April 3, 2006 on the Court's 9:00 a.m. civil case
 8 calendar. The parties further agreed to file and serve the motions by email or facsimile no later
 9 than March 13, 2006, to file and serve oppositions by email or facsimile no later than March 23,
 10 2006, and file and serve replies by email or facsimile no later than March 29, 2006. Potter
 11 Declaration ¶ 6.

12 J. The parties to this appeal have not sought any other time modifications from this
 13 Court. Potter Declaration ¶ 7.

14 K. The parties do not anticipate that this stipulated request to shorten time for notice
 15 will affect the briefing schedule that the Court has not yet entered on Clapp's appeals and the
 16 Debtor's cross-appeal. Potter Declaration ¶ 8.

STIPULATION

18 1. Clapp, the Debtor, the Trustee and the Lincoln Trustees request that the Court
 19 shorten time for notice of and specially set a hearing date on Clapp's motion for stay pending
 20 appeal and the Debtor's motion to dismiss Clapp's appeal for April 3, 2006, on the Court's 9:00
 21 a.m. civil case calendar.

22 2. Clapp and the Debtor stipulate that they will file and serve their motions by email
 23 or facsimile no later than March 13, 2006.

24 3. The parties stipulate that they will file and serve any oppositions to the motions by
 25 email or facsimile no later than March 23, 2006, and any replies by email or facsimile no later
 26 than March 29, 2006, or by such other deadlines as are set by this Court.

27 4. The Debtor, the Trustee and the Lincoln Trustees stipulate that they will not set a
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1 hearing in Monterey County Superior Court on the motion for approval of the settlement
2 agreement for a date prior to the hearing on the motion for stay on April 3, 2006, or such other
3 hearing date as this Court may set, or otherwise consummate the settlement until after that
4 hearing date.

5 Dated: March 7, 2006

DLA PIPER RUDNICK GRAY CARY US LLP

7 By /s/ Amy Wallace Potter
8 AMY WALLACE POTTER
9 Attorneys for Creditor and Appellant
CHARLES K. CLAPP

10 Dated: March 7, 2006

SULMEYER KUPETZ

11 By /s/ Christopher Alliotts
12 CHRISTOPHER ALLIOTTS
13 Attorneys for Debtor
CONSTANCE DUDLEY

14 Dated: March 7, 2006

LUCE FORWARD

16 By /s/ Sandi Colabianchi
17 SANDI COLABIANCHI
18 Attorneys for Trustee
MOHAMED POONJA

19 Dated: March 7, 2006

GRUNSKY EBEY FARRAR & HOWELL

20 By /s/ Rebecca Connolly
21 REBECCA CONNOLLY
22 Attorneys for Lincoln Building Trustees
PAUL LAUB, ANDREW SWARTZ, and
BROCK TOSTEVIN

23 I, Amy Wallace Potter, hereby attest that I have on file all holograph signatures for any
24 signatures indicated by a "conformed" signature (/s/) within this efiled document.
25

26 Dated: March 7, 2006

/s/ Amy Wallace Potter
AMY WALLACE POTTER

1 PURSUANT TO STIPULATION, IT IS SO ORDERED.
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Dated: March 9, 2006

3 By James Ware
4 HONORABLE JAMES WARE
5 UNITED STATES DISTRICT COURT JUDGE
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